



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2011-0859; FRL-9621-1]

**Approval and Promulgation of Air Quality Implementation Plans;
Missouri; Reasonably Available Control Technology (RACT) for the
8-Hour Ozone National Ambient Air Quality Standard (NAAQS)**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to conditionally approve a State Implementation Plan (SIP) revision submitted by the State of Missouri to EPA on January 17, 2007, with a supplemental revision submitted to EPA on June 1, 2011. The purpose of these SIP revisions is to satisfy the RACT requirements for volatile organic compounds (VOCs) set forth in the Clean Air Act (CAA or Act) with respect to the 8-hour ozone NAAQS. In addition to taking final action on the 2007 submission, EPA is also taking final action to approve several VOC rules adopted by Missouri and submitted to EPA in a letter dated August 16, 2011 for approval into its SIP. We are taking final action to approve these revisions because they enhance the Missouri SIP by improving VOC emission controls in Missouri. EPA's final action to conditionally approve the SIP submittal is consistent with section 110(k)(4) of the CAA. As part of the conditional

approval, Missouri will be required to revise its rules to address one additional source category, no later than December 31, 2012.

EFFECTIVE DATE: This final rule will be effective [insert date 30 days from date of publication of this document in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R07-OAR-2011-0859. All documents in the docket are listed on the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding

Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Lachala Kemp, Air Planning and Development Branch, U.S. Environmental Protection Agency Region 7, 901 N. 5th Street, Kansas City, Kansas 66101; telephone number (913) 551-7214; e-mail address: kemp.lachala@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following questions:

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I. What final action is EPA taking in this final rule?

EPA is taking final action to conditionally approve a SIP revision submitted by the State of Missouri to EPA on January 17, 2007, and June 1, 2011. The purpose of these revisions is to ensure that certain sources of VOC emissions are controlled to a level which represents Reasonably Available Control Technology (RACT), and that certain source categories meet RACT levels consistent with Control Techniques Guidelines (CTGs) issued by EPA prior to 2006. EPA is also taking final action to

approve several VOC rules adopted by Missouri and submitted to EPA in a letter dated August 16, 2011 for approval into its SIP. This latter submittal addresses VOC RACT requirements for sources in categories for which EPA issued CTGs during 2006-2008. The purpose of today's action is to conditionally approve the referenced SIP submissions as meeting the VOC RACT requirements of CAA section 182(b)(2) for the Missouri portion of the St. Louis metropolitan 8-hour ozone nonattainment area.

On October 25, 2011, EPA published in the Federal Register a proposed rulemaking to conditionally approve this SIP revision and to approve these VOC rules (76 FR 66013). EPA did not receive any public comments on this proposal.

II. What is the background for the approvals by EPA in this final rule?

This section briefly summarizes the background for today's final action. More detailed discussion of the statutory and regulatory background can be found in the preamble to the proposal for this rulemaking (see 76 FR at 66014-17).

The St. Louis metropolitan area, which includes the counties of Franklin, Jefferson, St. Charles and St. Louis, and the City of St. Louis in Missouri (as well as four counties in Illinois), is currently designated as a moderate nonattainment area under the 8-hour ozone standard. For areas in moderate

nonattainment with the ozone NAAQS, CAA section 182(b)(2) requires states to submit SIP revisions to EPA that require sources of VOCs that are subject to a CTG issued by EPA, and all other major stationary sources, in the nonattainment area to implement RACT.¹

On January 17, 2007, the Missouri Department of Natural Resources (MDNR) submitted to EPA proposed SIP revisions demonstrating compliance with the RACT requirements set forth by the CAA under the 8-hour ozone NAAQS. This submittal addressed all source categories for which a CTG had been issued by EPA prior to 2006, and addressed the controls in place for all other major stationary sources in the nonattainment area. Since the development of the initial submittal by MDNR, EPA issued a number of new CTGs, in 2006, 2007, and 2008. States were then required to address RACT requirements for sources in the source categories covered by these CTGs. As a result, on June 1, 2011, MDNR submitted an amendment to its prior RACT demonstration.

With respect to the source categories for which a CTG had been issued by EPA prior to 2006, MDNR certified that all

¹ Section 182(f) of the CAA requires that all SIP provisions required for major stationary sources of VOCs shall also apply to major stationary sources of Nitrogen Oxides (NOx), unless EPA exempts a specific nonattainment area from this requirement based on criteria set forth in section 182(f). With respect to NOx, EPA approved Missouri's request for a "NOx waiver," effective September 19, 2011. Based on this rule, Missouri withdrew the portion of its 2007 submission relating to NOx RACT. Therefore, today's action only addresses Missouri's obligations for VOCs. See 76 FR at 66014-15.

of the existing St. Louis area VOC rules still satisfy RACT requirements for the 8-hour ozone standard. EPA proposed to approve this certification (see 76 FR at 66016) and did not receive any public comments on this proposal. Therefore, based on the rationale stated in the proposal, EPA is approving this certification in today's action.

With respect to the source categories for which a CTG was issued by EPA beginning in 2006, MDNR submitted three revised rules to EPA for approval. EPA proposed to approve these rules in the proposed rulemaking (see 76 FR at 66016) and did not receive any public comments on this proposal. Therefore, in today's action, EPA finds that these revised rules address the RACT requirements and is approving these rules into the Missouri SIP. These rules cover the following source categories: 1) Industrial Surface Coating Operations (10 CSR 10-5.330), 2) Rotogravure and Flexographic Printing (10 CSR 10-5.340), and 3) Lithographic Printing Operations (10 CSR 10-5.442). For a more detailed description of the CTGs issued by EPA and the corresponding Missouri VOC rules which address these CTGs, see 76 FR at 66015-17.

Finally, in today's final action, EPA is conditionally approving the Missouri SIP revisions that address the requirements of RACT under the 8-hour ozone NAAQS. As discussed

in the proposed rulemaking, at this time, EPA is unable to fully approve the state's RACT SIP revision because the current submittal does not yet meet all RACT requirements.

Specifically, Missouri has not submitted RACT rules for inclusion into the Missouri SIP to address one CTG: Solvent Cleanup Operations. However, MDNR submitted a letter dated September 30, 2011, committing to submit a SIP to address the solvent cleaning CTG no later than December 31, 2012. Based on this commitment, pursuant to section 110(k)(4) of the CAA, EPA is conditionally approving Missouri's proposed SIP revision in today's action. Under that section, EPA may approve a SIP revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than one year after the date of approval of the SIP. Missouri must revise its rules to be consistent with the CAA (i.e., it must adopt a specific enforceable measure to address RACT for solvent metal cleaning operations) no later than December 31, 2012. This conditional approval shall be treated as a disapproval if Missouri fails to comply with this commitment.

III. EPA's Final Action

In today's rulemaking, EPA is taking the following final actions. First, with respect to Missouri's VOC RACT rules that EPA previously approved into Missouri's SIP under the 1-hour

ozone standard, EPA is taking final action to approve Missouri's certification that these RACT controls continue to represent RACT under the 8-hour ozone standard. Second, EPA is taking final action to approve revisions to three of Missouri's VOC rules (10 CSR 10-5.330; 10 CSR 10-5.340; 10 CSR 10-5.442) into Missouri's SIP, as these rules satisfy RACT for the Missouri portion of the St. Louis nonattainment area. Third, pursuant to CAA section 110(k)(4), EPA is taking final action to conditionally approve the Missouri SIP revisions that address the requirements of RACT under the 8-hour ozone NAAQS. Missouri must submit a SIP revision addressing the solvent cleaning CTG discussed above, no later than December 31, 2012. This conditional approval shall be treated as a disapproval if Missouri fails to comply with this commitment.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For

that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register.

A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Reporting and recordkeeping requirements,
Volatile organic compounds.

Dated: January 10, 2012

Karl Brooks
Karl Brooks,
Regional Administrator,
Region 7.

40 CFR part 52 is amended as follows:

PART 52-[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 et seq.

Subpart AA - Missouri

2. Section 52.1320(c) is amended by revising the following entries under "Chapter 5 - Air Quality Standards and Air Pollution Control Requirements for the St. Louis Metropolitan Area" to read as follows:

§52.1320 Identification of plan

* * * * *

(c)***

Table 1 - EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
* * * * *				
10-5.330	Control of Emissions from Industrial Surface Coating Operations.	08/30/2011	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	

10-5.340	Control of Emissions from Rotogravure and Flexographic Printing Facilities.	08/30/2011	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	
* * * * *				
10-5.442	Control of Emissions from Offset Lithographic Printing Operations.	08/30/2011	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	
* * * * *				

3. In § 52.1320, the table in paragraph (e) is amended by adding the following entry to read as follows:

§ 52.1320 Identification of plan

* * * * *

(e)***

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				

(55) VOC RACT Requirements for the 8-hour ozone NAAQS	St. Louis	01/17/2007, 06/01/2011	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	We are conditionally approving this SIP revision based on Missouri's commitment to submit a SIP to address the solvent cleaning CTG no later than December 31, 2012.
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4. Section 52.1323 is amended by adding paragraph (o) to read as follows:

§ 52.1323 Approval status.

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(o) The Administrator conditionally approves the Missouri SIP revisions that address the requirements of RACT under the 8-hour ozone NAAQS under §52.1320(c). Full approval is contingent on Missouri submitting RACT rules for inclusion into the Missouri SIP to address the Solvent Cleanup Operations CTG, to the EPA, no later than December 31, 2012.

[FR Doc. 2012-1086 Filed 01/20/2012 at 8:45 am; Publication Date: 01/23/2012]